

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CALVIN ANDRE ANDERSON,

Plaintiff,

v.

DEPARTMENT OF SOCIAL AND
HEALTH SERVICES,

Defendant.

CASE NO. 3:23-cv-05610-DGE

ORDER ADOPTING REPORT AND
RECOMMENDATION

The Court, after *de novo* review of the record, has reviewed the Report and Recommendation (“R&R”) of United States Magistrate Judge Brian A. Tsuchida, and objections, if any, to the R&R.

Judge Tsuchida recommends dismissing Plaintiff’s complaint with prejudice because the Department of Social and Health Services is a state agency and is immune from suit under the Eleventh Amendment. (Dkt. No. 9 at 2.) In the alternative, Judge Tsuchida recommends dismissing Plaintiff’s complaint without prejudice because Plaintiff is a pre-trial detainee facing

1 unresolved and pending state criminal charges and the Court should abstain from interfering with
2 the criminal charges under *Younger v. Harris*, 401 U.S. 37 (1971). (*Id.* at 3.)

3 The Court finds dismissal without prejudice is appropriate because Plaintiff's claims
4 appear related to pending state court criminal charges. Pursuant to *Younger*, it is inappropriate
5 for the Court to consider the claims while those proceedings have not been resolved.

6 Accordingly, the Court does hereby find and ORDER:

- 7 (1) The Court ADOPTS the Report and Recommendation (Dkt. No. 9.)
8 (2) This matter is DISMISSED without prejudice.
9 (3) The Clerk is directed to send copies of this Order to Plaintiff and to the Hon.
10 Brian A. Tsuchida.
11 (4) Plaintiff's motion for a continuance and to appoint counsel (Dkt. No. 10) is
12 DENIED.

13 Dated this 31st day of August, 2023.

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16 David G. Estudillo
17 United States District Judge
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